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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 30TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR.JUSTICE CHANDRASHEKARAI AH

W.P.NO.24549/1994

BETWEEN:

Smt.Taherunnisa,
w/o C.Abdul Rahim
@ Amir John,
aged about 55 years,
r/at Old No.2026/3,
New No.2432/3,
Gurappana Mutt,
Vijayapura Town,
Devanahalli Taluk,
Bangalore Rural district.

..PETITIONER

(By Sri B.T.Parthasarthy, Adv.)

AND:

1. The Town Municipality,
Vijayapura,
Devanahalli Taluk,
Bangalore Rural District,
by its Chief Officer,
Vijayapura.

2. Sri K.Abdul Kalak,
s/o Abdul Khayum Sab,
major, r/at No.2334/2024,
Gurappana Mutt,
Vijayapura Town,
Devanahalli Taluk,
Bangalore Rural district.

..RESPONDENTS

(By Sri R.Chandranna, Adv. for R-1,
Sri V.Chandrappa, Adv. for R-2)

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This writ petition is filed under Article 226 of the constitution of India with a prayer to direct the 1st respondent to perform its obligatory functions u/s.87(e)(f)(i) and keep the 10' lane leading to her house free from obstruction, encroachment and misuse by the 2nd respondent & etc.

This writ petition coming on for hearing this day, the court made the following:-

ORDER

The petitioner gave a representation on 28.6.94 alleging that the respondent no.2 is obstructing the use of the road by putting stone slabs and therefore requested the first respondent to take appropriate action to clear such obstruction. On the said application the first respondent has not held any enquiry and has not passed any order. Learned counsel for the second respondent submitted that there is no public road as such, as alleged by the petitioner in the writ petition and therefore the question of considering the allegation by the second respondent does not arise. He has further submitted that the first respondent has filed a memo stating that there is no public road. The question that arises for consideration

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in this writ petition is whether the first respondent has considered the representation after due notice to the petitioner in order to say the public road is ^{not} existing and there is any obstruction to use the said road.

In the case on hand no such enquiry has been held by the first respondent. If an opportunity is afforded to the petitioner by the first respondent the petitioner may establish there is a road infact existing and it is being obstructed by the second respondent. In the case on hand as there is no such enquiry in my opinion it is a fit case to issue necessary directions to the first respondent. In the result, I pass the following order:

Writ petition is allowed. A direction is issued to the first respondent to consider the representation made by the petitioner on 28.6.94 and pass appropriate orders thereon after due notice to the petitioner and respondent no.2 as expeditiously as possible.



Sd/-
JUDGE